

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARK CALDERON,)	
)	
Plaintiff,)	
)	
v.)	No. 1:19-cv-02681-JMS-MPB
)	
BRYAN ABRAMS,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

This matter has been referred to United States Magistrate Judge Matthew P. Brookman by United States District Judge Jane Magnus-Stinson pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct any necessary hearings and issue a report and recommendation regarding the proper disposition of Plaintiff's *Motion to Set Hearing on Pending Preliminary Injunction* ([Docket No. 14](#)) and Plaintiff's *Supplement to His Motion to Set Hearing on Pending Preliminary Injunction* ([Docket No. 17](#)). ([Docket No. 22](#)).¹ Neither motion is objected to by Defendant and the response period for both filings has now passed. It is **RECOMMENDED** that Plaintiff's *Motion to Set Hearing on Pending Preliminary Injunction Motion and for Partial Modification or Dissolution of State Court's Temporary Restraining Order* ([Docket No. 14](#)) and Plaintiff's *Motion to Supplement His Motion for Partial Modification or Dissolution of State Court's Temporary Restraining Order* ([Docket No. 17](#)) be granted in part.

Calderon has moved this Court to modify or dissolve the TRO Order entered by the State Court in this matter on June 21, 2019. Calderon argues that the State Court's TRO Order was agreed to contemporaneously with an agreement that the preliminary injunction hearing

¹ *Motion for Preliminary Injunction* ([Docket No. 12](#)) has also been referred but is not fully ripe and is set for an upcoming hearing.

be held on July 9, 2019. Calderon argues that the extension of the TRO Order does him financial harm that was not intended by the State Court.

Calderon further argues that Abrams has not met any of the requirements for injunctive relief, in that Abrams has not filed a motion asking for such relief, has filed no verified pleading, has established no findings of fact or conclusions of law, and has posted no bond. FED. R. CIV. P. 65. Calderon asks, in these circumstances, that the TRO Order be dissolved as to him or at least modified for purposes of keeping the status quo before the August 14, 2019 preliminary junction hearing presently set in this matter.


The undersigned, being duly advised, finds that Calderon's request to modify the TRO Order pending the August 14 hearing date should be GRANTED in part, adopting Calderon's request to modify the TRO order as to him, rather than dissolve it as to him. The undersigned recommends that portion of the TRO should now read:

3. The promotion of shows for Color Me Badd which Calderon will appear without Abrams may continue and the attorneys for the parties shall attempt reach an agreement for both Calderon and Abrams to participate in the shows. In addition, if only Calderon appears at any shows under the Color Me Badd name all monies from such shows shall be ~~placed in a trust account~~ strictly accounted for to permit the Court and the parties to review the monies and then the Court will determine at the conclusion of this case who is entitled to such monies.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1). Failure to file timely objections within fourteen days after service shall constitute waiver of subsequent review absent a showing of good cause for such failure.

SO RECOMMENDED.

Dated: July 31, 2019



Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

Service made electronically to all ECF-registered counsel of record.